

# **MINUTES OF THE OPEN SESSION OF THE RHODE ISLAND ETHICS COMMISSION**

**April 29, 2014**

**The Rhode Island Ethics Commission held its 6th meeting of 2014 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, April 29, 2014, pursuant to the notice published at the Commission offices, the State House Library, and electronically with the Rhode Island Secretary of State.**

**The following Commissioners were present:**

**Ross Cheit, Chair    Edward A. Magro  
Mark B. Heffner    Robert A. Salk  
John M. LaCross**

**Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorney Amy C. Stewart; and Commission Investigators Peter J. Mancini and Gary V. Petrarca.**

**At 9:11 a.m. the Chair opened the meeting. The first order of business was the approval of minutes of the Open Session held on**

**March 25, 2014. Upon motion made by Commissioner Magro and duly seconded by Commissioner LaCross, it was**

**VOTED: To approve minutes of the Open Session held on March 25, 2014.**

**AYES: Robert A. Salk; Edward A. Magro; John M. LaCross; Ross Cheit.**

**ABSTENTIONS: Mark B. Heffner.**

**The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date. The first advisory opinion was that of:**

**George O. Steere, Jr., a member of the Gloucester Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from appearing before the Gloucester Town Council to provide public comment on a zoning change application for which he received notice as an abutter.**

**Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner LaCross and duly seconded by Commissioner Magro,**

**it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to George O. Steere, Jr., a member of the Gloucester Town Council.**

**The next advisory opinion was that of:**

**George O. Steere, Jr., a member of the Gloucester Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from appearing before the Gloucester Town Council to renew an Earth Removal License.**

**Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Magro and duly seconded by Commissioner Heffner, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to George O. Steere, Jr., a member of the Gloucester Town Council.**

**The next advisory opinion was that of:**

**Kevin Maloney, a member of the North Kingstown Town Council, requesting an advisory opinion regarding whether the Code of Ethics prohibits his participation in the Town Council's consideration of proposed Comprehensive Plan and Zoning Ordinance amendments**

relative to the Preserve at Rolling Greens development plan, given that his primary residence is located in an abutting subdivision.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. The Petitioner stated that he disagreed with the staff's recommendation that he was required to recuse from this matter. He explained that only his common property abutted the Golf Course and his residence is one-quarter mile away from the development area, in the most direct path over the Golf Course. He stated that he has lived near the Golf Course for twenty (20) years and it has not changed in that time. He stated that he has a 1/124 interest in the common property of his subdivision and the common property is already preserved in perpetuity as open space. He informed that there is a street light at the entrance to his subdivision on Route 102 and few people cut through the subdivision given the many stop signs.

The Petitioner informed that he ran for the Town Council on this issue and feels that if he cannot participate he is letting his constituents down. He further stated that the Town has combined various other Comprehensive Plan amendments along with the Rolling Greens amendments and he would like to participate in those as well. In response to Commissioner Heffner, the Petitioner stated that the Rolling Greens development may impact the value of his home, but it will similarly impact his neighbors. The Petitioner noted that the additional proposed retail and housing units at Rolling

**Greens will impact the entire Town by increasing the tax base.**

**In response to Commissioner LaCross, Staff Attorney Stewart clarified that the Code prohibits participation in a matter where there will be a direct financial benefit or detriment to the Petitioner. Commissioner Salk noted that based on these facts, it looks like there would be a benefit to the Petitioner if Rolling Greens is approved with respect to his property value. Chair Cheit stated that he believes any speculative financial impact would be a similar impact upon all the residents of the Petitioner's subdivision.**

**Chair Cheit and Commissioner Heffner both indicated that they would like to see facts supporting the application of the class exception in this case. Staff Attorney Stewart suggested continuing the matter to the next meeting at which time the Commission could consider a class exception analysis in addition to the existing recommendation of recusal. The Petitioner stated that the two week delay would not be a problem. There was a consensus to continue this advisory opinion to the next meeting to include a class exception analysis.**

**The final advisory opinion was that of:**

**Jason I. Simmons, a securities examiner at the Rhode Island Department of Business Regulation, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from engaging in private employment, on his own time, as a realtor.**

**Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. Upon motion made by Commissioner LaCross and duly seconded by Commissioner Magro, it was unanimously**

**VOTED: To issue an advisory opinion, attached hereto, to Jason I. Simmons, a securities examiner at the Rhode Island Department of Business Regulation.**

**The next order of business was an adjudicative hearing in the matter of In re: Lynne A. DeStefano, Complaint No. NF2013-1. The hearing was stenographically recorded and a transcript of the proceeding will be available at the Commission Offices. Commission Prosecutor Katherine D'Arezzo represented the People of the State of Rhode Island. The Respondent, Lynne A. DeStefano, was not present.**

**Commission Prosecutor D'Arezzo presented the case to the Commission. She offered Exhibit 1 as evidence, the affidavit of Michelle Berg, Ethics Commission Administrative Officer in charge of Financial Disclosure, along with five (5) attachments. Exhibit 1 was admitted as a full exhibit. She also offered Exhibit 2 as evidence, the affidavit of Peter J. Mancini, Ethics Commission Investigator. Exhibit 2 was admitted as a full exhibit.**

**The Commission deliberated in open session. Upon motion made by**

**Commissioner Magro and duly seconded by Commissioner Salk, it was unanimously**

**VOTED: To find that the Respondent, Lynne A. DeStefano, violated R.I. Gen. Laws § 36-14-16 by failing to file a 2012 Financial Disclosure Statement.**

**Commission Prosecutor D'Arezzo suggested a penalty of \$1500 be imposed on the Respondent, Lynne A. DeStefano, for this finding of a violation. The Commission deliberated in open session. Upon motion made by Commissioner Salk and duly seconded by Commission LaCross, it was unanimously**

**VOTED: To impose a fine of \$1500 on the Respondent, Lynne A. DeStefano, for failing to file a 2012 Financial Disclosure Statement.**

**[Reporter's note: In re: Thomas P. McGee, IV, Complaint No. NF2013-3 settled prior to today's meeting.]**

**The next order of business was a legislative update regarding pending legislation presented by Staff Attorney Gramitt. He informed that House Resolution 7593 was scheduled for consideration by the House Judiciary Committee that evening. He stated that he would be testifying consistent with prior instructions from the Commission. He explained that H7593 and Senate Resolutions 2034 and 2824, which were all discussed at the last Commission meeting, are related to**

restoring the jurisdiction of the Ethics Commission over members of the General Assembly. He also noted Senate Bill 2840 which related to expanding the membership of the Ethics Commission and subjecting Commissioners to advice and consent of the Senate. He said that S2840 was considered by the Senate Judiciary Committee on April 3, 2014. He stated that he did not take a position on it, but he noted that Common Cause of RI testified in opposition. Discussion ensued. Commissioner Heffner suggested that it would be helpful if Commission staff could identify specific advisory opinions as examples of when the class exception applied to member of the general assembly with respect to the legislative process.

At 10:36 a.m., upon motion made by Commissioner Magro and duly seconded by Commissioner Salk, it was unanimously

**VOTED:** To go into executive session, to wit:

In re: Albert G. Brien, Complaint No. 2013-6, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

Prior to entering executive session, Legal Counsel Alves announced that he was recusing from In re: Albert G. Brien, Complaint No. 2013-6. He left the meeting prior to the start of Executive Session.

The Commission reconvened in Open Session at approximately 10:56 a.m. Chair Cheit reported that during Executive Session, in the



**matter of In re: Albert G. Brien, Complaint No. 2013-6, the Commission unanimously voted to approve an Informal Resolution & Settlement.**

**The next order of business was the Director's Report. Executive Director Willever reported that there were two (2) complaints, eight (8) advisory opinions, and one (1) litigation matter pending. He stated that thirty-three (33) APRA requests were granted since the last meeting, all of which were completed within one (1) business day.**

**The next order of business was New Business. There being none, at 11:02 a.m. upon motion made by Commissioner Magro and duly seconded by Commissioner LaCross, it was unanimously**

**VOTED: To adjourn.**

**Respectfully**

**submitted,**

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**John D. Lynch, Jr.**

**Secretary**